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BIRCH STEWART KOLASCH & BIRCH			MISLEH, JUSTIN P	
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FALLS CHURCH, VA 22040-0747			2612	

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/768,629	HYODO ET AL.	
	Examiner	Art Unit	
	Justin P. Misleh	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 08 June 2005.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 2 and 5 - 22 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 2 and 5 - 22 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 January 2001 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to **Claims 2, 6 – 10, 18, 21 and, 22** filed 8 June 2005 have been fully considered but they are not persuasive.
2. Applicant's arguments with respect to **Claims 5, 11 – 17, 19, and 20** have been considered but are moot in view of the new grounds of rejection.
3. Furthermore, Applicant's amendment to Claim 6 overcomes the respective claim objection (Final Rejection, 2 March 2005); however, Applicant's amendment to Claims 11 and 13 do not fully overcome the respective claim objections (also Final Rejection, 2 March 2005). The respective claim objection are found below.

### **Windle (US 6 606 117 B1)**

In regards to Windle et al., Applicant argues, “there is no teaching or suggestion that is directed to an enabling selection of a composition assist frame from the at least one extracted composition assist frame associated with the selected shooting mode.” Furthermore, Applicant concludes, “that as these elements are clearly recited as separate elements where selection is based upon the extraction [and] the mere teaching of selecting a mode a purportedly taught in Windle is insufficient.”

The Examiner disagrees with Applicant's position. The Examiner maintains that Claim 6 is written broadly enough such that Applicant's own characterizations of the claim language and

the prior art are insufficient to overcome the Examiner rejections in the Final Office Action (2 March 2005). Turning to the claim language:

Claim 6 requires, *inter alia*, a storing device, an extracting device, and a composition assist frame selecting device. The storing device stores a plurality of composition assist frames. The extracting device extracts ONE OR MORE composition assist frames that can be selected from the plurality of composition assist frames that are stored in the storing device, according to the selected shooting mode. The composition assist frame selecting device allows selection of a composition assist frame from the ONE OR MORE (from the at least one) composition assist frames that were extracted.

In other words, the claim at least requires that if the extracting device extracts ONLY ONE composition assist frame from the plurality of composition assist frames, then the composition assist frame selecting device AUTOMATICALLY and ONLY selects the composition assist frame that was extracted. Likewise, the claim at least requires that if the extracting device extracts TWO OR MORE composition assist frames from the plurality of composition assist frames, then the composition assist frame selecting device can SELECT from among the TWO OR MORE composition assist frames that were extracted.

Hence, the claim is written broadly enough that the composition assist frame selecting device becomes a superfluous feature of the claim when the extraction device extracts ONE composition assist frame. Moreover, once a shooting mode is selected and the composition assist frame associated with that particular shooting mode is extracted, the composition assist frame is effectively selected. Windle et al., as asserted by Applicant, clearly teaches that for the

landscape, the pan shot, and the portrait templates as disclosed in Fig. 3, only one composition assist frame is associated with each selection.

Windle et al. explicitly disclose several shooting modes including Landscape, Pan Shot, and Portrait (see Figure 3). Furthermore, Windle et al. also explicitly disclose a SINGLE composition assist frame that is associated with a particular shooting mode (see Figures 4 – 7). In other words, when the shooting mode is selected, the extracting device automatically extracts the SINGLE composition assist frame that is associated with that shooting mode. In addition, since the SINGLE composition assist frame is extracted, the composition assist frame selecting device MUST select the extracted SINGLE composition assist frame. Therefore, as in the claim language, the SINGLE composition assist frame is effectively selected when the SINGLE composition assist frame is extracted.

The Examiner acknowledges that Windle et al. does not disclose a plurality of composition assist frames PER shooting mode and Windle et al. also does not disclose that once a shooting mode is selected the composition assist frame selecting device can select from among a plurality of composition assist frames extracted in response to the selected shooting mode; however, as previously stated, the claim language is written broadly enough to allow for the Examiner's characterizations of the claim language and prior art.

### *Claim Objections*

4. **Claims 11 and 13** are objected to because of the following informalities: minor typographical errors resulting in language inconsistencies.

**Claims 11 and 13** recite therein, “the direction of the camera determined by the direction determining device”; however, the direction determining device determines whether the camera is held widthwise or lengthwise. **Appropriate correction is required.**

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. **Claims 2, 6, 7, 10, 18, 21, and 22** are rejected under 35 U.S.C. 102(e) as being anticipated by Windle (US 6 606 117 B1). The following rejections are made in view of Examiner’s response to arguments above, which are hereby fully incorporated into these rejections.

7. For **Claims 6 and 18**, Windle discloses, as shown in figures 2 – 7 and as stated in columns 4 (lines 38 – 43), 5 (lines 42 – 49), 6 (lines 1 – 37 and 49 – 58), 7 (lines 22 – 32 and 44 – 67), and 8 (lines 23 – 28), a digital camera (202) and a corresponding method of operating thereof comprising:

a shooting mode selecting device (205) that selects a shooting mode from a plurality of shooting modes (Landscape, Panoramic, Portrait; see column 4, lines 38 – 43, column 5, lines 42 – 49, and column 6, lines 9 – 17);

an imaging device (202) that images a subject (201) in the shooting mode selected by the shooting mode selecting device (205) and outputs image signals;

an image displaying device (203) that displays the image according to the image signals outputted from the imaging device (see figures 2 – 7);

a storing device (103/108; see figure 1) that stores data of a plurality of composition assist frames (see column 4, lines 38 – 43);

an extracting device (104; see figure 1 and column 4, lines 38 – 43) that extracts one or more composition assist frames (Landscape template, Panoramic template, Portrait template) that can be selected from the plurality of composition assist frames according to the shooting mode selected by the shooting mode selecting device (see figure 3 and see column 6, lines 9 – 17);

a composition assist frame selecting device (104; see figure 1 and column 4, lines 38 – 43) that selects a composition assist frame from the composition assist frames extracted by the extracting device; and

a composition assist frame displaying device (203) that displays the composition assist frame selected by the composition assist frame selecting device on the image displaying device displaying the image (see figure 3).

The claim at least requires that if the extracting device extracts ONLY ONE composition assist frame from the plurality of composition assist frames, then the composition assist frame selecting device AUTOMATICALLY and ONLY selects the composition assist frame that was extracted. Likewise, the claim at least requires that if the extracting device extracts TWO OR MORE composition assist frames from the plurality of composition assist frames, then the

composition assist frame selecting device can SELECT from among the TWO OR MORE composition assist frames that were extracted.

Hence, the claim is written broadly enough that the composition assist frame selecting device becomes a superfluous feature of the claim when the extraction device extracts ONE composition assist frame. Moreover, once a shooting mode is selected and the composition assist frame associated with that particular shooting mode is extracted, the composition assist frame is effectively selected. Windle et al., as asserted by Applicant, clearly teaches that for the landscape, the pan shot, and the portrait templates as disclosed in Fig. 3, only one composition assist frame is associated with each selection.

8. As for **Claim 2**, Windle discloses, as shown in figure 3, the composition assist frame (template) selecting method for the digital camera (202) as defined in Claim 1, wherein the plurality of shooting modes (Landscape, Panoramic, Portrait; see column 4, lines 38 – 43, column 5, lines 42 – 49, and column 6, lines 9 – 17) include at least two of an automatic shooting mode, a day scenic shooting mode (Landscape template), a person shooting mode (Portrait template) and a night scenic shooting mode.

9. As for **Claim 7**, Windle discloses, as shown in figure 3, the composition assist frame (template) selecting method for the digital camera (202) as defined in Claim 1, wherein the plurality of shooting modes (Landscape, Panoramic, Portrait; see column 4, lines 38 – 43, column 5, lines 42 – 49, and column 6, lines 9 – 17) include at least two of an automatic shooting mode, a day scenic shooting mode (Landscape template), a person shooting mode (Portrait template) and a night scenic shooting mode.

10. As for **Claim 10**, Windle discloses, as shown in figure 1 and as stated in column 4 (lines 25 – 32), the digital camera (202) as defined in Claim 6, further comprising a storage device (image recorder) that stores the image signals outputted from the imaging device (202) in a storage medium (output via the output interface 102 such as digital video recorders and/or image recording devices).

11. As for **Claim 21**, Windle discloses a one-to-one correspondence between the composition assist frames and the selected shooting mode. Furthermore, Windle discloses a plurality of shooting modes and a plurality of composition assist frames.

12. As for **Claim 22**, Windle discloses, as stated in column 6 (lines 26 – 37), that a template includes a number elements, “including a positioning indicator 401, a line up marker 404, and a center marker 405.” Windle goes on further by stating, “these elements, although visible on the LCD 203 are not captured as part of any image.” Finally, Windle makes it clear that “depending on the implementation, the elements can appear on a portion of the display in which the image is not displayed, or can be composited over the image.” Furthermore, Windle indicates that each template is actually a frame that overlays a captured preview images to assist a user in capturing a final image. Windle also notes that the elements can circumscribe an area within the display – i.e. “the elements can appear on a portion of the display in which the image is not displayed.”

Therefore, Windle discloses wherein each of composition assist frames circumscribes an area with the display.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. **Claims 8 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Windle in view of Kyuma et al. (US 5 883 666).

15. As for **Claim 8**, Windle discloses a digital camera comprising a shooting mode selecting device that selects a shooting mode from a plurality of shooting modes and a extracting device that extracts one or more composition assist frames that can be selected from the plurality of composition assist frames according to the shooting mode selected by the shooting mode selecting device. However, Windle does not disclose a luminance determining device that determines subject luminance by weighting areas of the image according to the shooting mode selected by the shooting mode selecting device, the imaging device controlling exposure according to the subject luminance determined by the luminance determining device.

On the other hand, Kyuma et al. also disclose a digital camera comprising a shooting mode selecting device that selects a shooting mode from a plurality of shooting modes. More specifically, Kyuma et al. disclose, as shown in figures 3 and 6 – 8 and as stated in columns 6 (lines 12 – 28 and 43 – 62), 7 (lines 11 – 15), and 10 (lines 7 – 46), a digital camera (see figure 3) comprising a luminance determining device (Lookup tables 19a, 19b, and 19c and CPU 25) that determines subject luminance by weighting areas (see figure 6 – 8; figure 8 corresponds to a landscape photography mode) of the image according to the shooting mode (from among

plurality of shooting modes; see column 6, lines 43 – 56) selected by the shooting mode selecting device, the imaging device controlling exposure according to the subject luminance determined by the luminance determining device (see column 6, lines 57 – 62).

As stated in column 2 (lines 8 – 35), at the time the invention was made, one with ordinary skill in the art would have been motivated to include a luminance determining device that determines subject luminance by weighting areas of the image according to the shooting mode, as taught by Kyuma et al., in the digital camera, disclosed by Windle, as a means to provide an optimal photographing operation correspond to all photographing environments at all times. Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to have included a luminance determining device that determines subject luminance by weighting areas of the image according to the shooting mode, as taught by Kyuma et al., in the digital camera, disclosed by Windle.

16. As for **Claim 9**, Kyuma et al. disclose, as stated in columns 6 (lines 57 – 62) and 9 (lines 28 – 35), wherein the luminance determining device corrects the subject luminance according to the shooting mode selected by the shooting mode selecting device.

17. **Claim 5, 11 – 14, 17, 19, and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Windle in view of Silverbrook (US 6 597 817 B1). The following rejections are made in view of Examiner's response to arguments above, which are hereby fully incorporated into these rejections.

18. For **Claims 11 (please see objections above) and 19**, Windle discloses, as shown in figures 2 – 7 and as stated in columns 4 (lines 38 – 43), 5 (lines 42 – 49), 6 (lines 1 – 37 and 49 –

58), 7 (lines 22 – 32 and 44 – 67), and 8 (lines 23 – 28), a digital camera (202) and a corresponding method of operating thereof comprising:

- an imaging device (202) that images a subject (201) and outputs image signals;
- an image displaying device (203) that displays the image according to the image signals outputted from the imaging device (see figures 2 – 7); and
- a storing device (103/108; see figure 1) that stores data of a plurality of composition assist frames (see column 4, lines 38 – 43);
- an extracting device (104; see figure 1 and column 4, lines 38 – 43) that extracts one or more composition assist frames (Landscape template, Panoramic template, Portrait template) that can be selected from the plurality of composition assist frames;
- a composition assist frame selecting device (104; see figure 1 and column 4, lines 38 – 43) that selects a composition assist frame from the composition assist frames extracted by the extracting device; and
- a composition assist frame displaying device (203) that displays the composition assist frame selected by the composition assist frame selecting device on the image displaying device displaying the image (see figure 3).

Windle further discloses, as stated in column 4 (lines 38 – 43), column 5 (lines 42 – 49), and column 6 (lines 9 – 17), a shooting mode selecting device (205) that selects a shooting mode from a plurality of shooting modes (Landscape, Panoramic, Portrait,); wherein the extracting device extracts one or more composition assist frames according to the shooting mode selected by the shooting mode selecting device. In summary, Windle clearly teaches that for the landscape, the pan shot, and the portrait modes as disclosed in Fig. 3, only one composition assist

frame is associated with each selection. However, Windle does not disclose a direction determining device that determines whether the digital camera is held widthwise or lengthwise.

In analogous art, Silverbrook also discloses a digital camera, a corresponding method of operation, and a displayed digital image with overlay. More specifically, Silverbrook discloses, as shown in figures 1 and 2 and as stated in column 2 (line 50) – column 3 (line 60), a digital camera (artcam) with an orientation sensor (46) for sensing the orientation of the digital camera and determining whether a captured image was captured in a portrait mode or landscape mode such that the overlaying of information (e.g. date, time, text) relevant to the captured image can be displayed together with the image in the correct orientation. Therefore, Silverbrook discloses a direction determining device that determines whether the digital camera is held widthwise or lengthwise.

As stated in column 2 (lines 7 – 11) of Silverbrook, at the time the invention was made, one with ordinary skill in the art would have been motivated to include the direction determining teachings of Silverbrook in the digital camera disclosed by the Windle for the advantage of reducing the significant printer post processing of captured images.

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to have included a direction determining device that determines whether the digital camera is held widthwise or lengthwise and an extracting device that extracts one or more composition assist frames that can be selected from the plurality of composition assist frames according to the direction of the camera determined by the direction determining device.

19. For Claims 13 (please see objection above) and 20, Windle discloses, as shown in figures 2 – 7 and as stated in columns 4 (lines 38 – 43), 5 (lines 42 – 49), 6 (lines 1 – 37 and 49 –

58), 7 (lines 22 – 32 and 44 – 67), and 8 (lines 23 – 28), a digital camera (202) and a corresponding method of operating thereof comprising:

a shooting mode selecting device (205) that selects a shooting mode from a plurality of shooting modes (Landscape, Panoramic, Portrait; see column 4, lines 38 – 43, column 5, lines 42 – 49, and column 6, lines 9 – 17);

an imaging device (202) that images a subject (201) and outputs image signals;

an image displaying device (203) that displays the image according to the image signals outputted from the imaging device (see figures 2 – 7); and

a storing device (103/108; see figure 1) that stores data of a plurality of composition assist frames (see column 4, lines 38 – 43);

an extracting device (104; see figure 1 and column 4, lines 38 – 43) that extracts one or more composition assist frames (Landscape template, Panoramic template, Portrait template) that can be selected from the plurality of composition assist frames according to the shooting mode selected by the shooting mode selecting device (see figure 3 and see column 6, lines 9 – 17);

a composition assist frame selecting device (104; see figure 1 and column 4, lines 38 – 43) that selects a composition assist frame from the composition assist frames extracted by the extracting device; and

a composition assist frame displaying device (203) that displays the composition assist frame selected by the composition assist frame selecting device on the image displaying device displaying the image (see figure 3).

In summary, Windle clearly teaches that for the landscape, the pan shot, and the portrait modes as disclosed in Fig. 3, only one composition assist frame is associated with each selection.

However, Windle does not disclose a direction determining device that determines whether the digital camera is held widthwise or lengthwise.

In analogous art, Silverbrook also discloses a digital camera, a corresponding method of operation, and a displayed digital image with overlay. More specifically, Silverbrook discloses, as shown in figures 1 and 2 and as stated in column 2 (line 50) – column 3 (line 60), a digital camera (artcam) with an orientation sensor (46) for sensing the orientation of the digital camera and determining whether a captured image was captured in a portrait mode or landscape mode such that the overlaying of information (e.g. date, time, text) relevant to the captured image can be displayed together with the image in the correct orientation. Therefore, Silverbrook discloses a direction determining device that determines whether the digital camera is held widthwise or lengthwise.

As stated in column 2 (lines 7 – 11) of Silverbrook, at the time the invention was made, one with ordinary skill in the art would have been motivated to include the direction determining teachings of Silverbrook in the digital camera disclosed by the Windle for the advantage of reducing the significant printer post processing of captured images.

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to have also included a direction determining device that determines whether the digital camera is held widthwise or lengthwise such that the extracting device that extracts one or more composition assist frames that can be selected from the plurality of composition assist frames according, in addition to, the shooting mode selected, the direction of the camera determined by the direction determining device.

20. As for **Claim 5**, Windle discloses, as shown in figure 3, the composition assist frame (template) selecting method for the digital camera (202) as defined in Claim 1, wherein the plurality of shooting modes (Landscape, Panoramic, Portrait; see column 4, lines 38 – 43, column 5, lines 42 – 49, and column 6, lines 9 – 17) include at least two of an automatic shooting mode, a day scenic shooting mode (Landscape template), a person shooting mode (Portrait template) and a night scenic shooting mode.

21. As for **Claim 12**, Windle discloses, as shown in figure 1 and as stated in column 4 (lines 25 – 32), the digital camera (202) as defined in Claim 6, further comprising a storage device (image recorder) that stores the image signals outputted from the imaging device (202) in a storage medium (output via the output interface 102 such as digital video recorders and/or image recording devices).

22. As for **Claim 14**, Windle discloses, as shown in figure 3, the composition assist frame (template) selecting method for the digital camera (202) as defined in Claim 1, wherein the plurality of shooting modes (Landscape, Panoramic, Portrait; see column 4, lines 38 – 43, column 5, lines 42 – 49, and column 6, lines 9 – 17) include at least two of an automatic shooting mode, a day scenic shooting mode (Landscape template), a person shooting mode (Portrait template) and a night scenic shooting mode.

23. As for **Claim 17**, Windle discloses, as shown in figure 1 and as stated in column 4 (lines 25 – 32), the digital camera (202) as defined in Claim 6, further comprising a storage device (image recorder) that stores the image signals outputted from the imaging device (202) in a storage medium (output via the output interface 102 such as digital video recorders and/or image recording devices).

24. **Claims 15 and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Windle in view of Silverbrook in further view of Kyuma et al.

25. As for **Claim 15**, Windle in view of Silverbrook, in-combination teach a digital camera comprising a shooting mode selecting device that selects a shooting mode from a plurality of shooting modes and a an extracting device that extracts one or more composition assist frames that can be selected from the plurality of composition assist frames according to the shooting mode selected by the shooting mode selecting device. However, Windle in view of Silverbrook do not teach a luminance determining device that determines subject luminance by weighting areas of the image according to the shooting mode selected by the shooting mode selecting device, the imaging device controlling exposure according to the subject luminance determined by the luminance determining device.

On the other hand, Kyuma et al. also disclose a digital camera comprising a shooting mode selecting device that selects a shooting mode from a plurality of shooting modes. More specifically, Kyuma et al. disclose, as shown in figures 3 and 6 – 8 and as stated in columns 6 (lines 12 – 28 and 43 – 62), 7 (lines 11 – 15), and 10 (lines 7 – 46), a digital camera (see figure 3) comprising a luminance determining device (Lookup tables 19a, 19b, and 19c and CPU 25) that determines subject luminance by weighting areas (see figure 6 – 8; figure 8 corresponds to a landscape photography mode) of the image according to the shooting mode (from among plurality of shooting modes; see column 6, lines 43 – 56) selected by the shooting mode selecting device, the imaging device controlling exposure according to the subject luminance determined by the luminance determining device (see column 6, lines 57 – 62).

As stated in column 2 (lines 8 – 35), at the time the invention was made, one with ordinary skill in the art would have been motivated to include a luminance determining device that determines subject luminance by weighting areas of the image according to the shooting mode, as taught by Kyuma et al., in the digital camera, taught by Windle in view of Silverbrook, as a means to provide an optimal photographing operation correspond to all photographing environments at all times. Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to have included a luminance determining device that determines subject luminance by weighting areas of the image according to the shooting mode, as taught by Kyuma et al., in the digital camera, taught by Windle in view of Silverbrook.

26. As for **Claim 16**, Kyuma et al. disclose, as stated in columns 6 (lines 57 – 62) and 9 (lines 28 – 35), wherein the luminance determining device corrects the subject luminance according to the shooting mode selected by the shooting mode selecting device.

### *Conclusion*

27. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

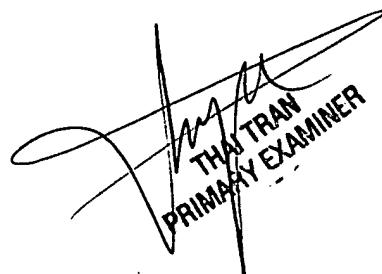
however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

28. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Thao Tran <sup>7382</sup>, Wendy R Garber can be reached on 571.272.7308. The fax phone number for the organization where this application or proceeding is assigned is 571.273.3000.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JPM  
August 8, 2005



THAI TRAN  
PRIMARY EXAMINER